

STATE OF NORTH CAROLINA
BOARD OF REVIEW



IN THE MATTER OF:

Higher Authority Decision No.

ATTN:

Claimant

Employer

Pursuant to N.C. Gen. Stat. § 96-15(e), this cause came before the Board of Review (“Board”) to consider the **(claimant’s) (employer’s) appeal** from a decision by Appeals Referee under Appeals Docket No. . The record evidence has been reviewed in its entirety.

A review of the record reveals that the claimant filed a NEW INITIAL CLAIM (NIC) for unemployment insurance benefits effective . The Determination by Adjudicator, Division Exhibit No. , found the claimant (disqualified) (not disqualified) (eligible) (not eligible) for benefits due to . The NIC continued from through .

After taking testimony from (the claimant) (the employer) (both parties), the Appeals Referee handled the case as one of whether the claimant was (unemployed within the meaning of the law) (separated from employment). During the hearing, the (claimant) (employer) testified that . This testimony raised an issue of . However, the only issues noticed in the Notice of Hearing by Telephone, Division Exhibit No. , were whether the claimant or . The Appeals Referee failed to obtain a waiver of notice from parties in attendance at the hearing, in order to discuss the issue of under N.C. Gen. Stat. § 96-(). Pursuant to 04 N.C. Admin. Code 24C .0204, the Division’s Notice of Hearing must include each issue with statutory reference to be heard and decided. A party may waive lack of notice of the issue on the record at the hearing, or in writing prior to the hearing.

Based on the foregoing, the cause must be remanded to the Appeals Section of the Division of Employment Security for a **de novo hearing**.

At the conclusion of the hearing on remand, the Appeals Referee must set aside the Appeals Decision and issue a new decision with new findings of fact and conclusions of law. These findings of fact shall state the procedural history of the remands, a summary of the requirements of the remand orders, and the parties and witnesses appearing at each of the hearings that were conducted in the matter.

The cause is **REMANDED** for further proceedings consistent with this decision.

IMPORTANT – SEE FOLLOWING PAGE



IT IS ORDERED that all interested parties shall be duly notified as to time and place for rehearing, and the Appeals Referee shall identify the new decision at the conclusion of the remanded hearing by using all previously assigned docket numbers. **In addition to the previously noticed issues, the Notice of Hearing sent to the parties shall include the issue of [INSERT ISSUE] pursuant to N.C. Gen. Stat. § 96-() among the issues to be considered by the Appeals Referee at the hearing.**

IT IS FURTHER ORDERED that all documents contained in the record transmitted to the Appeals Referee with this decision, including the appeal and all other correspondence or documents by whatever name or designation, shall be marked as exhibits and entered into the record by the Appeals Referee on remand in order that the record will be complete as required by law.

IT IS ALSO ORDERED that a decision in this matter shall be mailed within 30 days from the date of receipt of the remanded record in the Appeals Section, unless an extension is granted in writing by the Chief Appeals Referee and made part of the record.

Board of Review members Susan Doe and John Doe participated in this appeal and concur with this decision.

This the .

BOARD OF REVIEW

Chairman

NOTICE TO ALL INTERESTED PARTIES

A legal representative as defined in 04 N.C. Admin. Code 24A .0105(32) (including individuals from a third-party company serving as an employer's unemployment insurance administrator) must be a licensed attorney, or a person supervised by a licensed attorney in accordance with N.C. Gen. Stat. Ch. 84 and § 96-17(b). Notices and/or certification of attorney supervision must be in writing pursuant to 04 N.C. Admin. Code 24C .0504. **Legal representation in judicial proceedings must comply with N.C. Gen. Stat. Ch. 84.**

Pursuant to 04 N.C. Admin. Code 24C .0504, when a party has a legal representative, all documents or information required to be provided to the party will only be sent to the legal representative. Any information provided to a party's legal representative will have the same force and effect as if it had been sent directly to the party.

For claims filed on or after June 30, 2013, claimants are subject to repayment of benefits received from any administrative or judicial decision that is later reversed on appeal. N.C. Gen. Stat. § 96-18(g)(2).

Appeal Filed:

Decision Mailed: